

1 WILLIAM R. TAMAYO
2 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
3 SAN FRANCISCO DISTRICT OFFICE
350 THE EMBARCADERO, SUITE 500
SAN FRANCISCO, CALIFORNIA 94105-1260

4 JOHN F. STANLEY
5 MOLLY KÜÇÜK
6 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
909 FIRST AVENUE, SUITE 400
7 SEATTLE, WA 98104
TEL: (206) 220-6892
8 FAX: (206) 220-6911
molly.kucuk@eeoc.gov

9 ATTORNEYS FOR PLAINTIFF

10
11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE WESTERN DISTRICT OF WASHINGTON

14
15 EQUAL EMPLOYMENT OPPORTUNITY
16 COMMISSION,

17 Plaintiff,

18 v.

19 SSHI LLC, a subsidiary of D.R. HORTON,
20 INC.

21 Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

22 NATURE OF THE ACTION

23
24 This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I
25 of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of

COMPLAINT- Page 1 of 5

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle Field Office
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone: (206) 220-6883
Facsimile: (206) 220-6911
TDD: (206) 220-6882

1 disability and to provide appropriate relief to Rebecca Denney, who was adversely affected by
2 such practices. The Equal Employment Opportunity Commission ("EEOC") alleges that SSHI
3 LLC, a subsidiary of D.R. Horton, Inc. ("Defendant") discriminated against Ms. Denney, a
4 qualified individual with a disability, when it refused to engage in the interactive process and
5 provide her with a reasonable accommodation, and then terminated her employment because of
6 her disability.

8 JURISDICTION AND VENUE

9 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
10 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the
11 Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by
12 reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
13 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991,
14 42 U.S.C. § 1981a.

15 2. The employment practices alleged to be unlawful were committed within the
16 jurisdiction of the United States District Court for the Western District of Washington.

17 PARTIES

18 3. Plaintiff, the Equal Employment Opportunity Commission (EEOC or
19 "Commission"), is the agency of the United States of America charged with the administration,
20 interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this
21 action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference
22 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1)

23 4. At all relevant times, Defendant has continuously been doing business in the State
24 of Washington and has continuously had at least 15 employees.

25 5. At all relevant times, Defendant has continuously been an employer engaged in an
industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and

1 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections
 2 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

3 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of
 4 the ADA, 42 U.S.C. § 12111(2).

5 STATEMENT OF CLAIMS

6 7. More than thirty days prior to the institution of this lawsuit, Rebecca Denney filed
 7 a charge with the Commission alleging violations of Title I of the ADA by Defendant. All
 8 conditions precedent to the institution of this lawsuit have been fulfilled.

9 8. Since at least August 2007, Defendant has engaged in unlawful employment
 10 practices in violation of Sections 102(a) and 102(b)(5) of Title I of the ADA, 42 U.S.C. §§
 11 12112(a) and 12112(b)(5). The Defendant discriminated against Rebecca Denney, a qualified
 12 individual with a disability, when it failed to engage in the interactive process and provide a
 13 reasonable accommodation to her, and then terminated her because of her disability.

14 9. The effect of the practices complained of in paragraph 8 above has been to
 15 deprive Ms. Denney of equal employment opportunities and otherwise adversely affect her status
 16 as an employee, because of her disability.

17 10. The unlawful employment practices complained of in paragraph 8 were and are
 18 intentional.

19 PRAYER FOR RELIEF

20 Wherefore, the Commission respectfully requests that this Court:

21 A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors,
 22 assigns, and all persons in active concert or participation with it, from unlawfully failing to
 23 provide equal employment opportunities to employees with disabilities and to accommodate
 24 employees' disabilities, and any other employment practice which discriminates on the basis of
 25 disability.

1 B. Order Defendant to institute and carry out policies, practices, and programs which
2 provide equal employment opportunities for qualified individuals with disabilities, and which
3 eradicate the effects of its past and present unlawful employment practices.

4 C. Order Defendant to make whole Rebecca Denney by providing appropriate back
5 pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief
6 necessary to eradicate the effects of its unlawful employment practices.

7 D. Order Defendant to make whole Rebecca Denney by providing compensation for
8 past and future pecuniary losses resulting from the unlawful employment practices described in
9 paragraph 8 above, including past and future out-of-pocket losses, in amounts to be determined
10 at trial.

11 E. Order Defendant to make whole Rebecca Denney by providing compensation for
12 past and future non-pecuniary losses resulting from the unlawful practices complained of in
13 paragraph 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life,
14 and humiliation, in amounts to be determined at trial.

15 F. Order Defendant to pay Rebecca Denney punitive damages for its malicious and
16 reckless conduct, as described in paragraph 8 above in amounts to be determined at trial.

17 G. Grant such further relief as the Court deems necessary and proper in the public
18 interest.

19 H. Award the Commission its costs of this action.

20 //

21 //

22 //

23 //

24 //

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 30th day of September, 2009.

WILLIAM R. TAMAYO
Regional Attorney

JAMES L. LEE
Deputy General Counsel

JOHN F. STANLEY
Supervisory Trial Attorney

GWENDOLYN Y. REAMS
Associate General Counsel

MOLLY P. KÜÇÜK
Senior Trial Attorney

BY: /s/ William R. Tamayo
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone (206) 220-6896
Facsimile (206) 220-6911

Office of the General Counsel
131 "M" St. NE
Washington, D.C. 20507

Attorneys for Plaintiff